

**REMARKS**

Claims 1, 3-10, 12, 13, 15 and 17-34 are pending. Claims 9, 12, 13 and 15 are cancelled herein without prejudice or disclaimer. Claims 1, 4 and 8 are amended herein. New claims 33 and 34 are added herein. Support for the new claims and amendments is detailed below.

Applicants' undersigned representative thanks Examiner Hon for the courtesies extended during the telephone interview of June 11, 2009. Applicants separate record of the substance of the interview is incorporated in the remarks below.

**Applicants' Response to the Claim Rejections under 35 U.S.C. §103**

**Claims 1, 3, 8-10, 12, 17-23, 25, 26, 28, 29, 31 and 32 are rejected under 35 U.S.C. § 103(a) over Land in view of Kawazu as set forth in the September 18, 2008 Office Action.**

Applicants have herein incorporated the features of claim 9 into parent claims 1 and 8. Further, new claim 33 is equivalent to claim 10 but depending from claim 1. Applicants respectfully submit that the combination of Land and Kawazu does not provide for the features of claim parent claims 1 and 8 as now presented.

Specifically, as mentioned during the interview, the combination of references does not provide for the features of claim 9 or 10 regarding the azimuth valuation and relation of  $(\lambda_1 - \lambda_2) = 10$  to 50 nm.

As set forth in the Office Action of September 18, 2008, these properties were presumed to be inherent on the basis that Land teaches the claimed polarizer and that where the claimed

and prior art products are identical or substantially identical in structure and composition the claimed properties may be presumed to be inherent.

However, as mentioned during the interview, these characteristics would not be inherent to a polarizer such as that disclosed by Land, even assuming the properties of the metal particle from Kawazu. As described in the specification from page 10, line 19 to page 13, line 10, the absorption characteristic of a polarizer of the invention is clearly different from an absorption characteristic of an iodine-based polarizer or a polarizer using a dichroic dye. The current invention relates to a polarizer having an absorption spectrum with an absorption peak at a given wavelength, measured when polarized light impinges thereon, wherein if an azimuth of an incident polarization plane is altered relative to the polarizer, the absorption peak wavelength shifts in accordance with an alteration in the azimuth. A value of the absorption peak wavelength itself alters depending on an azimuth of an incident polarization plane. As stated in the specification, "an absorption spectrum shifts an absorption peak laterally" depending on an azimuth of the incident polarization plane relative to the polarizer. As a result of the shift, a good polarization performance can be exerted depending on an azimuth of the incident polarization plane even with a small difference in absorbance between the MD spectrum and the TD spectrum.

In regard to claim 10 and new claim 33, the polarizer preferably satisfies a relation of  $(\lambda_1 - \lambda_2) = 10$  to 50 nm, because if the value of  $(\lambda_1 - \lambda_2)$  is less than 10 nm, two absorptions to be shifted are almost superimposed one on the other, which makes it difficult to exert a polarization characteristic.

As such, these characteristics are not inherent nor is there any disclosures in either Land or Kawazu whereby a skilled artisan would derive these features of the presently claimed invention.

As set forth in *Takeda v. Alphapharm* 492 F.3d 1350, 1356-1357; 83 USPQ2d 1169 (Fed. Cir. 2007):

While the *KSR* Court rejected a rigid application of the teaching, suggestion, or motivation ("TSM") test in an obviousness inquiry, the Court acknowledged the importance of identifying "a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does" in an obviousness determination. *KSR*, 127 S. Ct. at 1731.

However, in the current case, there is no reason whereby a skilled artisan could derive the azimuth relation of the current claims. Wherefore, for the reason detailed above, and discussed during the interview, applicants respectfully submit that the present invention as now claimed is not obvious.

**Claims 4-10, 12-15, 24, 25, 27, 28 and 30 under 35 U.S.C. § 103(a) are rejected over Hikmet in view of Kawazu as set forth in the September 18, 2008 Office Action.**

**Similar to above, applicants** have herein incorporated the features of claim 9 into parent claims 4 and 8. Further, new claim 34 is equivalent to claim 10 but depending from claim 4. Applicants respectfully submit that the combination of Hikmet and Kawazu does not provide for the features of claim parent claims 4 and 8 as now presented.

Specifically, as mentioned during the interview, the combination of references does not provide for the features of claim 9 or 10 regarding the azimuth valuation and relation of  $(\lambda_1 - \lambda_2) = 10$  to 50 nm.

As set forth in the Office Action of September 18, 2008, these properties were presumed to be inherent on the basis that Hikmet teaches the claimed polarizer and that where the claimed and prior art products are identical or substantially identical in structure and composition the claimed properties maybe presumed to be inherent.

However, as mentioned during the interview, these characteristics would not be inherent to a polarizer such as that disclosed by Hikmet, even assuming the properties of the metal particle from Kawazu. As detailed above, the described features are likewise not inherently derived from a film such as that of Hikmet.

Wherefore, for the reason detailed above, and discussed during the interview, applicants respectfully submit that the present invention as now claimed is not obvious.

**Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hikmet in view of Kawazu, as applied to claims 4-10, 13-15, 27-28 above.**

**Claims 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Land in view of Kawazu, as applied to claims 1, 3-8, 12, 17-18, 26, 28-29 above.**

Applicants respectfully submit that by addressing the rejection of the parent claims, as detailed above, likewise the rejection of the present claims is addressed by nature of their dependency.

Application No.: 10/532,059  
Art Unit: 1794

Amendment under 37 CFR §1.116  
Attorney Docket No.: 052453

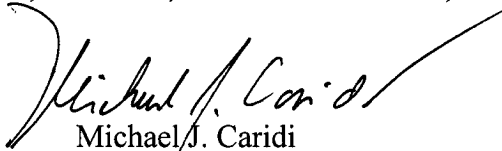
In view of the aforementioned amendments and accompanying remarks, Applicants submit that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

**WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP**

A handwritten signature in black ink, appearing to read "Michael J. Caridi", is written over the printed name and title.

Michael J. Caridi  
Attorney for Applicants  
Registration No. 56,171  
Telephone: (202) 822-1100  
Facsimile: (202) 822-1111

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